

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11136-GAO

FEDERAL TRADE COMMISSION,
Plaintiff,

vs.

DIRECT MARKETING CONCEPTS, INC., d/b/a TODAY'S HEALTH and DIRECT FULFILLMENT, ITV DIRECT, INC., d/b/a DIRECT FULFILLMENT, DONALD W. BARRETT, TRIAD ML MARKETING, INC., KING MEDIA, INC., ALLEN STERN, LISA STERN, and BP INTERNATIONAL, INC.,
Defendants.

**FINAL ORDER AND JUDGMENT FOR EQUITABLE RELIEF
AGAINST RELIEF DEFENDANT BP INTERNATIONAL, INC.**

Pursuant to the Orders of the Court dated July 14, 2008 (dkt. no. 187) and August 13, 2009 (dkt. no. 256),

IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

MONETARY RELIEF

I.

IT IS HEREBY ORDERED that Relief Defendant BP International, Inc. pay to the Federal Trade Commission ("Commission") the amount of \$574,274.23, representing the funds received from Defendants Triad ML Marketing, Inc. in connection with the sale of Coral Calcium Daily.

A. All payments shall be made by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with instructions provided by the Commission.

B. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress, and any attendant expenses for the administration of such equitable relief.

C. In the event that the Commission in its sole discretion determines that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to BP International's practices alleged in the Amended Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. BP International shall have no right to challenge the Commission's choice of remedies under this Paragraph or the manner of distribution chosen by the Commission. No portion of any payments under the judgment herein shall be deemed a payment of any fine, penalty, or punitive assessment.

D. In accordance with 31 U.S.C. § 7701, BP International is hereby required, unless it has done so already, to furnish to the Commission its taxpayer identifying number (social security number or employer identification number), which shall be used for the purposes of collecting and reporting on any delinquent amount arising out of its relationship with the government.

ASSET FREEZE

II.

IT IS FURTHER ORDERED that Relief Defendant BP International and its officers, directors, agents, servants, employees, attorneys, and all other persons or entities in active

concert or participation with it who receive actual notice of this Order by personal service or otherwise, including by facsimile, are hereby enjoined from:

A. Selling, liquidating, assigning, transferring, converting, loaning, encumbering, pledging, concealing, dissipating, spending, withdrawing, or otherwise disposing of any funds, real or personal property, intellectual property or other assets or any interest therein, wherever located, including any assets outside the territorial United States, that are:

1. owned or controlled by BP International in whole or in part; or
2. in the actual or constructive possession of BP International; or
3. owned, controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of BP International or any corporation, partnership, trust or other entity directly or indirectly owned, managed or controlled by BP International;

B. Opening or causing to be opened any safe deposit boxed titled in the name of BP International, or subject to access by BP International or any other person or entity subject to Section II above; and

C. Incurring charges or cash advances on any credit or debit card issued in the name, singly or jointly, of BP International, or any corporation, partnership or other entity directly or indirectly owned, managed, or controlled by BP International.

IT IS FURTHER ORDERED THAT the funds, property and assets affected by this section shall include both existing assets and assets acquired after the effective date of this Order, including without limitation, those acquired by loan or gift. BP International, and any third party holding assets for the benefit of BP International, shall hold all assets, including without limitation, payments, loans, and gifts received after having received notice of this Order by personal service or otherwise, including by facsimile.

ACCOUNTING

III.

IT IS FURTHER ORDERED that Relief Defendant BP International shall, within fourteen (14) days of entry of this Order, provide the Commission with an up-to-date accounting of all assets it holds, controls, or maintains, including all assets held on its behalf or for its benefit, in whole or in part. Such accounting shall include a list of all such assets and their value, and shall include but not be limited to a list of all cash, bank accounts, money market accounts, securities, and deferred income arrangements (such as 401(k) plans and IRAs). Such listing also shall indicate the nature of the interest, the ownership structure of each asset (e.g. whether such asset is owned jointly) and the name and contact information of any other person who has or asserts interest in such asset. BP International shall swear to the truthfulness of the accounting under penalty of perjury.

DISCOVERY

IV.

IT IS FURTHER ORDERED that fourteen (14) days after entry of this Order, the Commission, in accordance with Rule 69 of the Federal Rules of Civil Procedure, may conduct discovery in the manner provided by the Federal Rules of Civil Procedure, or in the manner provided by the practice of the state of Massachusetts, in aid of this judgment and execution thereof. Such permissible discovery includes, but is not limited to, the deposition of BP International or any officer, director, or employee thereof.

RETENTION OF JURISDICTION

V.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

It is SO ORDERED, this 13th day of August 2009.

/s/ George A. O'Toole, Jr.
United States District Judge